IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4526 OF 2006
IN
FIRST APPEAL (STAMP) NO.12615 OF 2003

ALONG WITH

CIVIL APPLICATION (STAMP) NO.12625 OF 2003
IN
FIRST APPEAL (STAMP) NO.12614 OF 2003

Mr. Vasant Narayan Karla @ Karle ... Applicant

Vs.

Smt. Ulka Arvind Karla @ Karle & Ors. ... Respondents

Mr. Avinash B. Avhad for the applicant.

Mr. B.D. Joshi for the respondents 1 and 2.

CORAM : SMT. RANJANA DESAI &
SMT. V.K. TAHILRAMANI, JJ.

DATED : 18TH OCTOBER, 2006.

P.C.:-

1. Heard learned counsel for the parties. All the parties are present in the court. The map of the premises in question is tendered in the court. We have taken it on record and marked “X” (for convenience, “the said map”). In our opinion, during the pendency of these appeals, the following interim arrangement would serve the ends of justice.

2. We direct that the portions marked in red ink in the ground floor plan in

the said map i.e. shop Nos.1 and 2 and in the first floor plan of the said map i.e. flat No.3 will be in possession of respondent 1 –- Ulka Karla. The portion marked in blue ink on the ground floor plan of the said map i.e. shop No.7 is a vacant shop. Without prejudice to the rights and contentions of all the parties, the appellant and respondent 3 may, by mutual arrangement, occupy the said portion. However, they shall not sell it nor will they create any third party interest in the said portion and they shall file an undertaking to that effect in this court within three weeks from today. The portions marked as “A”, “B”, “C” and “D” in the ground floor plan shown in the said map is with respondent 3 and will remain with him during the pendency of these appeals. The portion marked in blue ink in the first floor plan in the said map i.e. flat No.1 can be, by mutual arrangement, occupied by the appellant and respondent 3. However, they shall not sell the same or create any third party interest therein. They shall also file an undertaking to that effect in this court within a period of three weeks from today. This arrangement is also without prejudice to the rights and contentions of all the parties.

3. Admittedly, respondent 1, who is a widow, has at least, 1/3rd share in the suit premises. So far as shop Nos.1 and 2 on the ground floor and flat No.3 on the first floor are concerned, she will be free to deal with them in any manner she likes. Possession of the rooms which under this arrangement has to go to respondent 1, be handed over to her within one week from today.

4. We make it clear that the liability of paying any tax in respect of shop

Nos.1 and 2 and flat No.3 which will be handed over to respondent 1 shall start only from the date on which she is put in possession thereof.

5. So far as the portions marked in brown colour on the first floor plan of the said map consisting of flat Nos.2 and 4 and marked as J are concerned, they are in possession of respondent 3 and will remain with him during the pendency of these appeals, without prejudice to the rights and contentions of all the parties. He shall not sell it or create any third party interest therein during the pendency of these appeals and file undertaking to that effect in this court within three weeks from today.

6. Subject to the above, execution of the decree shall be stayed.

7. Civil applications are disposed of.

[SMT. RANJANA DESAI, J.]

[SMT. V.K. TAHILRAMANI, J.]